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SUBJECT Appeal Brief (09/964,999)

Number of Pages 33

Date 12/12/2005

MESSAGE

This fax communication contains:

1. one copy of a Fax Transmittal Form;
2. two copies of a Fee Transmittal Letter, including fee; and
3. three copies of the Appeal Brief.

Volel

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TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total number of Pages in This Submission

Application Number	09/864,999
Filing Date	05/27/2001
First Named Inventor	Sanaa F. Abdelhadi
Art Unit	2157
Examiner Name	Ronny M. Osman
Attorney Docket Number	AUS920010901US1

ENCLOSURES (Check all that apply)

- [✔] Fee Transmittal Form
  - [✔] Fee Attached
- [ ] Amendment/Reply
  - [ ] After Final
  - [ ] Affidavits/declaration(s)
- [ ] Extension of Time Request
- [ ] Express Abandonment Request
- [ ] Information Disclosure Statement
- [ ] Certified Copy of Priority Document(s)
- [ ] Response to Missing Parts/ Incomplete Application
  - [ ] Response to Missing Parts under 37 CFR 1.52 or 1.53
- [ ] Drawing(s)
- [ ] Licensing-related Papers
- [ ] Petition
- [ ] Petition to Convert to a Provisional Application
- [ ] Power of Attorney, Revocation
- [ ] Change of Correspondence Address
- [ ] Terminal Disclaimer
- [ ] Request for Refund
- [ ] CD, Number of CD(s) _____
- [ ] After Allowance communication to Technology Center (TC)
- [ ] Appeal Communication to Board of Appeals and Interferences
- [✔] Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
- [ ] Proprietary Information
- [ ] Status Letter
- [ ] Other Enclosure(s) (please identify below):

Remarks

Appeal Brief

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Volel Emile
Signature	
Date	12/12/2005

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Typed or printed name	Volel Emile		
Signature		Date	12/12/2005

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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Appl. No. 09/964,999
Appeal Brief dated 12/12/2005
Reply to Office Action of 07/25/2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Application of: Sanaa F. Abdelhadi	
Serial No: 09/964,999	Before the Examiner: Ramy M. Osman
Filed: 09/27/2001	Group Art Unit: 2157
Title: APPARATUS AND METHOD OF ASCERTAINING REMOTE SYSTEMS ACCESSIBILITY BEFORE RUNNING REMOTE COMMANDS	Confirmation No.: 2723

TRANSMITTAL OF APPELLANTS' BRIEF UNDER 37 C.F.R. 1.192(a)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Attached is Appellant's Brief, in triplicate, from a decision of the Examiner dated **07/25/2005**, finally rejecting the claims in the Application.

The item(s) marked below are appropriate:

1. _____ A petition and fee for extension of term for reply to the final rejection is attached.
2. __X__ Appeal fee
   __X__ other than a small entity. Fee: $500.00
3. __X__ Payment
   __X__ Please charge Deposit Account **09-0447** the sum of $500.00. A duplicate of this notice is attached.

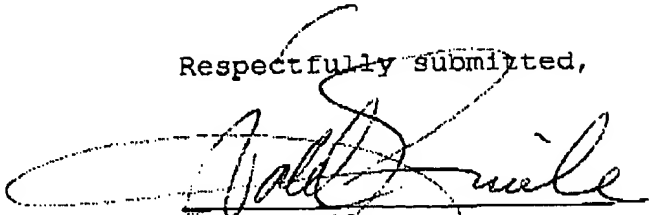
12/13/2005 TL0111 00000078 090447 09964999
01 FC:1402 500.00 DA

AUS920010901US1

Appl. No. 09/964,999
Appeal Brief dated 12/12/2005
Reply to Office Action of 07/25/2005

The Commissioner is hereby authorized to charge any additional fee, which may be required or credit any overpayment to Deposit Account No. **09-0447**.

Respectfully submitted,



Volel Emile
Attorney for Applicants
Registration No. 39,969
(512) 306-7969

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Commissioner for Patents
P.O. Box 1450
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Sir:

This is an appeal to a final rejection dated July 25, 2005 of claims 1 - 20 of Application Serial Number 09/964,999 filed on September 27, 2001. This Appeal Brief is submitted pursuant to a Notice of Appeal filed on October 11, 2005 in accordance with 37 C.F.R. 1.192.

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Real Party in Interest

The real party in interest is International Business Machines Corporation (IBM), the assignee.

(2)

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The present invention provides an apparatus, system, computer program product and method of ascertaining remote systems accessibility before running remote commands (see Title on page 1). Accordingly, when a command, to be executed on remote computer systems, is entered in a local command interface, a check is automatically made to determine each of the computer systems accessibility. The command is then sent only to the computer systems that have been determined to be accessible (see page 14, lines 24 - 30).

(6)

Issues

Whether Claims 1, 3 - 6, 8 - 11, 13 - 16 and 18 - 20 were properly rejected under 102(e) as being anticipated by Meyer. And, whether Claims 2, 7, 12 and 17 were properly rejected under 103 by being unpatentable over Meyer and Johnson et al.

(7)

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The rejected claims fall under two groups:

Group I: 1, 3 - 6, 8 - 11, 13 - 16 and 18 - 20; and

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Argument

In considering a Section 102 rejection, all the elements of the claimed invention must be disclosed in a single item of prior art in the form literally defined in the claim. *Jamesbury Corp. v. Litton Indus. Products*, 756 F.2d 1556, 225 USPQ 253 (Fed. Cir. 1985); *Atlas Powder Co. v. Dupont*, 750 F.2d 1569, 224 USPQ 409 (Fed. Cir. 1984); *American Hospital Supply v. Travenol Labs.*, 745 F.2d 1, 223 USPQ 577 (Fed. Cir. 1984).

Meyer purports to display a method and apparatus for remote computer management using web browser application to display system hardware and software configuration. According to the purported teachings of Meyer, a controlling computer addresses a remote standalone computer system through an HTTP server. Once communication is established between the controlling computer and the remote standalone computer system, computer diagnostics are performed.

However, Meyer does not teach the step of ***automatically determining each of the computer systems accessibility*** as claimed. That is, a browser can only open one session with one computer system at a time. If the session fails to open, a user has to manually have the browser open another session with another computer system

by addressing the other computer system. Consequently, the method in Meyer does not ***automatically determine each of the computer systems accessibility***.

Regarding Claims 2, 7 12 and 17, it should be noted that, Meyer, according to the Examiner, teaches the step of determining whether a remote computer system is accessible without the step of pinging the computer system. Why, then, would someone skilled in the art incorporate the step of pinging in the teachings of Meyer to determine whether a remote computer system is accessible?

In any case since neither the teachings of Meyer nor those of Johnson et al. teach the step of ***automatically determine each of the computer systems accessibility,*** Applicants submit that the claims are allowable. Therefore Applicants request allowance and passage to issue of the pending claims.

Respectfully submitted,

By: _____
Volel Emile
Attorney for Applicants
Registration No. 39,969
(512) 306-7969

APPENDIX

1. (Previously amended) A method of executing remote commands on remote computer systems comprising the steps of:

entering a remote command in a local command interface, said command to be executed by said computer systems;

automatically determining each of said computer systems accessibility; and

dispatching said command to the computer systems that are determined to be accessible.

2. (Previously amended) The method of Claim 1 wherein said step of automatically determining the computer systems accessibility includes the step of pinging each of said computer systems.

3. Canceled.

4. Canceled.

5. (Currently amended) The method of Claim [[4]] 2 further including the step of automatically re-dispatching the command for execution to a computer

system that failed to execute the command successfully and was corrected.

6. (Previously amended) A computer program product in a computer readable medium for executing remote commands on remote computer systems comprising:

code means for allowing a remote command to be entered in a local command interface, said command to be executed by said computer systems;

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code means for dispatching said command to the computer systems that are determined to be accessible.

7. (Previously amended) The computer program product of Claim 6 wherein said code means for automatically determining the computer systems accessibility includes code means for pinging each of said computer systems.

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10. (Currently amended) The computer program product of Claim [[9]] 7 further including code means for automatically re-dispatching the command for execution

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12. (Previously amended) The apparatus of Claim 11 wherein said means for automatically determining the computer systems accessibility includes means for pinging each of said computer systems.

13. Canceled.

14. Canceled.

15. (Currently amended) The apparatus of Claim ~~14~~ 12 further including means for automatically re-dispatching the command for execution to a computer system that failed to execute the command successfully and was corrected.

16. (Previously amended) A computer system for executing remote commands on remote network computer systems comprising:

at least a memory device for storing data;

at least a processor for allowing a command to be entered in a local command interface, said command to be executed by said network computer systems, for automatically determining each of said network computer systems accessibility, and for dispatching said command to the network computer systems that are determined to be accessible.

17. (Previously amended) The computer system of Claim 16 wherein said processor automatically determines the network computer systems operability by pinging each of said network computer systems.

18. Canceled.

19. Canceled.

20. (Currently amended) The computer system of Claim ~~19~~ 16 wherein the at least one processor further re-dispatches the command automatically to a network computer system that failed to execute the command successfully and was corrected.

DEC 1 2 2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Application of: Sanaa F. Abdelhadi	:	
	:	Before the Examiner:
Serial No: 09/964,999	:	Ramy M. Osman
Filed: 09/27/2001	:	Group Art Unit: 2157
Title: APPARATUS AND METHOD OF ASCERTAINING REMOTE SYSTEMS ACCESSIBILITY BEFORE RUNNING REMOTE COMMANDS	:	Confirmation No.: 2723

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P.O. Box 1450
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Respectfully submitted,

By: _____
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dispatching said command to the computer systems that are determined to be accessible.

2. (Previously amended) The method of Claim 1 wherein said step of automatically determining the computer systems accessibility includes the step of pinging each of said computer systems.

3. Canceled.

4. Canceled.

5. (Currently amended) The method of Claim [[4]] 2 further including the step of automatically re-dispatching the command for execution to a computer

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Serial No: 09/964,999	Before the Examiner: Ramy M. Osman
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